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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/031,701

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Georg Weihrauch

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8278

7590

03/17/2004

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EXAMINER

CHIN, RANDALL E

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 03/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/031,701

Applicant(s)

WEIHRAUCH, GEORG

Examiner

Randall Chin

Art Unit

1744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 17-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 17-26, 29 and 32 is/are rejected.
- 7) ☒ Claim(s) 27, 28, 30 and 31 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>01232002</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Specification***

1. The disclosure is objected to because of the following informalities: On p.12, line 6, "upper layer 11" and "upper layer 4" have the same reference numeral.

Appropriate correction is required.

2. Applicant is respect requested to clarify exactly what is being referred to as the "bristle carrier" as set forth in claims 17, 21, 22, 23, 24, 25, 31 and 32 since the language of some of these claims makes the scope unclear. Note, independent claim 17 merely introduces the "bristle carrier" in the preamble of the claim only.

Claim 31, lines 3-4, it is unclear from the claim what the structural relationship is between the "outer layer", "central layer", "first layer" (claim 17) and "second layer" (claim 17).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 17-26, 29 and 32 are rejected under 35 U.S.C. 102(a) as being anticipated by Hohlbein '383.

With respect to claims 17 and 29, the patent to Hohlbein '383 discloses in Fig. 1, for example, a brush with a bristle carrier comprising bristle stock 20, 22, a first layer at joint section 18 of a first plastic material (e.g., SANTOPRENE elastomer as recited in col.3, lines 1-19), the first layer still "facing" the bristle stock, the first layer being in at least indirect communication with the bristle stock, and a second layer 14, 16 of a second plastic material (plastic or resin such as polypropylene as recited in col.2, lines 59-60) differing from the first plastic material, the second layer still deemed to be "facing away" from the bristle stock, the second layer having openings just adjacent enlarged portions 34 and at zone 30 that are closed at a peripheral region of the second layer, the openings filled with the first plastic material, the second layer deemed to be "substantially parallel" to the first layer, wherein the first and second layers are procured by two-component injection molding (col. 3, lines 25-30) although the method of making is not germane to patentability here.

As for claims 18 and 19, the terms "non-positive connection" and "positive connection" are rather broad. Moreover, such terms are not deemed to adequately define structure to define over Hohlbein '383. In one case, one can consider the connection between the first and second layers to be "positive" in the sense that the materials are fixed to one another. In the other case, one may consider the connection to be "non-positive" since there are no detents or protrusions to hold the first and second layers together.

As for claim 20, as recited just above, the first and second layers are "fixed" to one another and this is deemed to be an "integral connection" in the final product.

As well as claim 21 is understood, the bristle carrier will flexibly give way under forces acting on said bristle stock when the brush is in use due to its construction (Fig.1).

As well as claim 22 is understood, a flexibility of the bristle carrier would be adjustable through at least one of a thicknesses of said first layer, a thickness of said second layer, a choice of said first plastic and a choice of said second plastic. Note that such a recitation is inherent and claim 22 is not deemed a positive limitation.

Similarly, as well as claim 23 is understood, a flexibility of the bristle carrier would be adjustable through a number of said openings in said second layer. Note that such a recitation is inherent and claim 23 is not deemed a positive limitation.

Similarly, as well as claim 24 is understood, a flexibility of the bristle carrier is adjustable through a size of said openings in said second layer. Note that such a recitation is inherent and claim 24 is not deemed a positive limitation.

Similarly, as well as claim 25 is understood, a flexibility of the bristle carrier is adjustable through a shape of said openings said second layer. Note that such a recitation is inherent and claim 25 is not deemed a positive limitation.

As for claim 26, the openings have cylindrical walls, at least where enlarged portions 34 are located (Fig.1).

With respect to claim 32, the first layer 18 is shorter in a longitudinal extension of the bristle carrier than the second layer 14,16, wherein said other one of said first and said second layers supplements said shorter layer over an entire length extension of the bristle carrier.

***Allowable Subject Matter***

5. Claims 27, 28, 30 and 31 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patent to Hohlbein '958 is similar to Hohlbein '383.

7. Any inquiry concerning this communication or earlier communication from the Examiner should be directed to Randall Chin whose telephone number is (571) 272-1270. The Examiner can normally be reached on Monday through Thursday and every other Friday.

If attempts to reach the Examiner are unsuccessful, the Examiner's supervisor, Robert Warden, can be reached at (571) 272-1281. The number for Technology Center 1700 is (571) 272-1700.

The central fax number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



R. Chin



Randall Chin  
Primary Examiner  
Art Unit 1744